

DEPARTMENT OF COMMERCE

International Trade Administration

(A-201-834)

Purified Carboxymethylcellulose from Mexico: Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to a request from Quimica Amtex S.A. de C.V. (Amtex), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Mexico. The review covers exports of the subject merchandise to the United States produced and exported by Amtex; the period of review (POR) is July 1, 2007, through June 30, 2008.

We preliminarily find that Amtex made sales at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on differences between the export price (EP) or constructed export price (CEP) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) a statement of the issues, (2) a brief summary of the arguments (no longer than five pages, including footnotes) and (3) a table of authorities.

EFFECTIVE DATE: (Insert date of publication in Federal Register.)

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6312 or (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department published the antidumping duty order on CMC from Mexico on July 11, 2005. See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands, and Sweden, 70 FR 39734 (July 11, 2005). On July 11, 2008, the Department published the notice of opportunity to request an administrative review of CMC from Mexico for the period of July 1, 2007, through June 30, 2008. See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review, 73 FR 39948 (July 11, 2008). On July 22, 2008, respondent Amtex requested an administrative review. On August 26, 2008, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 73 FR 50308 (August 26, 2008).

On August 26, 2008, the Department issued its standard antidumping duty questionnaire to Amtex. Amtex submitted its response to section A of the Department's questionnaire on October 14, 2008 (Amtex Section A Response). Amtex submitted its response to sections B and C of the Department's questionnaire on November 6, 2008 (Amtex Sections B and C Response).

On March 13, 2009, the Department issued a supplemental questionnaire for sections A, B, and C, to which Amtex responded on March 20, 2009 (Amtex Supplemental Response).

##### Period of Review

The period of review (POR) is July 1, 2007, through June 30, 2008.

### Scope of the Order

The merchandise covered by this order is all purified carboxymethylcellulose (CMC), sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. Purified CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

### Date of Sale

The Department's regulations state that it will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. See 19 CFR 351.401(i). If the Department is satisfied that "a different date... better reflects the date on which the exporter or producer establishes the material terms of sale," the Department may choose a different date. Id. Amtex has reported the definitive invoice (as differentiated from pro forma invoice) as the invoice date. See Amtex Section A Response at A22.

With regard to the invoice date, Amtex bills some of its sales via "delayed invoices" in both the home and U.S. markets. See Amtex Section A Response at A22. Delivery is made to the customer and a pro forma invoice is issued, but the subject merchandise remains in storage

and continues to be the property of Amtex until withdrawn for consumption by the customer (usually at the end of a regular, monthly billing cycle), at which time a definitive invoice is issued. Id. In Amtex's normal books and records, it is this definitive invoice date, not the pro forma invoice date, that is recorded as the date of sale. Id. Therefore, the Department preliminarily determines that the definitive invoice date is the date of sale provided it is issued on or before the shipment date; and that the shipment date is the date of sale where the invoice is issued after the shipment date. See Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Carboxymethylcellulose from Mexico dated April 2, 2009 (Analysis Memorandum), for further discussion of date of sale. A public version of this memorandum is on file in the Department's Central Records Unit (CRU) located in Room 1117 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### Fair Value Comparisons

To determine whether sales of CMC in the United States were made at less than NV, we compared U.S. price to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended (the Tariff Act), we calculated monthly weighted-average NVs and compared these to individual U.S. transactions. Because we determined Amtex made both EP and CEP sales during the POR, we used both EP and CEP as the basis for U.S. price in our comparisons.

#### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by Amtex covered by the description in the "Scope of the Order" section, above, and

sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We relied on five characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of priority): 1) grade; 2) viscosity; 3) degree of substitution; 4) particle size; and 5) solution gel characteristics. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of these product characteristics and the reporting instructions listed in the Department's August 26, 2008, questionnaire. Because there were contemporaneous sales of identical or similar merchandise in the home market suitable for comparison to all U.S. sales, we did not compare any U.S. sales to constructed value (CV). See the CV section below.

#### Export Price (EP)

Section 772(a) of the Tariff Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Tariff Act. In accordance with section 772(a) of the Tariff Act, we used EP for a number of Amtex's U.S. sales because these sales were made before the date of importation and were sales directly to unaffiliated customers in the United States, and because CEP methodology was not otherwise indicated.

We based EP on the packed, delivered duty paid, cost and freight (C&F) or free on board (FOB) prices to unaffiliated customers in the United States. Amtex reported no price or billing adjustments, and no discounts. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, which included, where appropriate, foreign inland freight

from the mill to the U.S. border, inland freight from the border to the customer or warehouse, and U.S. brokerage and handling. We made adjustment for direct expenses (credit expenses) in accordance with section 772(c)(2)(A) of the Tariff Act.

#### Constructed Export Price (CEP)

In accordance with section 772(b) of the Tariff Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter,” as adjusted under sections 772(c) and (d) of the Tariff Act. In accordance with section 772(b) of the Tariff Act, we used CEP for a number of Amtex’s U.S. sales because Amtex sold merchandise to its affiliate in the United States, Amtex Chemicals LLC (Amtex Chemicals or ACUS), which, in turn, sold subject merchandise to unaffiliated U.S. customers. See, e.g., Amtex Section A Response at A19-A20. We preliminarily find these U.S. sales are properly classified as CEP sales because they occurred in the United States and were made through Amtex’s U.S. affiliate, Amtex Chemicals, to unaffiliated U.S. customers.

We based CEP on the packed, delivered duty paid or FOB warehouse prices to unaffiliated purchasers in the United States. Amtex reported no price or billing adjustments, and no discounts or rebates. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, which included, where appropriate, foreign inland freight to the border, foreign brokerage and handling, customs duties, U.S. brokerage, U.S. inland freight, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs), inventory carrying costs, and indirect selling

expenses. We made no adjustment for CEP profit for the reasons set forth in the Analysis Memorandum. See Analysis Memorandum at 11.

### Normal Value

#### A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Tariff Act. Because Amtex's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined the home market was viable. See section 773(a)(1)(B) of the Tariff Act. Therefore, we based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

#### B. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers. Amtex reported no billing adjustments, discounts or rebates in the home market. We made deductions for movement expenses including, where appropriate, foreign inland freight and insurance, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise (i.e., DIFMER) pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

### C. Constructed Value (CV)

In accordance with section 773(a)(4) of the Tariff Act, we base NV on CV if we are unable to find a contemporaneous comparison market match of identical or similar merchandise for the U.S. sale. Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication employed in making the subject merchandise, selling, general and administrative (SG&A) expenses, financial expenses, profit, and U.S. packing costs. We found contemporaneous market matches for all the U.S. sales. Therefore, for these preliminary results, it was not necessary to base NV on CV. For a more detailed explanation of our CV analysis, which relies upon business proprietary information, please see Analysis Memorandum at 10-13.

### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is based on the starting price of sales in the home market or, when NV is based on CV, on the LOT of the sales from which SG&A expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. See section 19 CFR 351.412(c)(1)(ii).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section



773(a)(7)(A) of the Tariff Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). See, e.g., Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review, 70 FR 17406, 17410 (April 6, 2005), results unchanged in Notice of Final Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, 70 FR 58683 (October 7, 2005); see also Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada, 67 FR 8781 (February 26, 2002) and accompanying Issues and Decisions Memorandum at Comment 8. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Tariff Act. See Micron Technology, Inc. v. United States, 243 F.3d 1301, 1314-15 (Fed. Cir. 2001). We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. See Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decisions Memorandum at Comment 6.

Amtex reported it had sold CMC to end-users and distributors in the home market and to end-users and distributors in the United States. For the home market, Amtex identified two channels of distribution: end users (channel 1) and distributors (channel 2). See Amtex's Section A Response at A15. Amtex claimed a single level of trade in the home market, stating that it performs essentially the same selling functions to either category of customer.

We obtained information from Amtex regarding the marketing stages involved in making its reported home market and U.S. sales. Amtex provided a table listing all selling activities it performs, and comparing the levels of trade among each channel of distribution in each market. See Amtex's Section A Response at Exhibit A-8. We reviewed Amtex's claims concerning the intensity to which all selling functions were performed for each home market channel of distribution and customer category. For virtually all selling functions, the selling activities of Amtex were identical in both channels, including sales forecasting, personnel training, sales promotion, direct sales personnel, technical assistance, warranty service, after-sales service and arranging delivery. Id. Amtex described the level of activity as independent of channel of distribution. See Amtex's Section A Response at A16.

While we find some differences in the selling functions performed between the home market end-user and distributor channels of distribution, such differences are minor in that they are not the principal selling functions but rather specific to a few customers and rarely performed. See Amtex's Section A Response at Exhibit A-8. Based on our analysis of all of Amtex's home market selling functions, we agree with Amtex's characterization of all its home market sales as being made at the same level of trade, the NV LOT.

In the U.S. market, Amtex reported a single level of trade for both EP and CEP sales through two channels of distribution (i.e., end-users and distributors). See Amtex Sections B and C Response at C21. We examined the record with respect to Amtex's EP sales and find that for all EP sales, Amtex performed such selling functions as sales forecasting, sales promotion, direct sales personnel, technical assistance, warranties, after-sales services and arranging delivery. See Amtex's Section A Response at Exhibit A-8. In terms of the number and intensity of selling functions performed on EP sales, these were indistinguishable between sales from Amtex to end

users and to distributors. Id. Accordingly, we agree with Amtex and preliminarily determine that all EP sales were made at the same LOT.

We compared Amtex's EP level of trade to the single NV level of trade found in the home market. While we find differences in the levels of intensity performed for some of these functions between the home market NV level of trade and the EP level of trade, such differences are minor (specific to a few customers and rarely performed) and do not establish distinct levels of trade within the home market. Based on our analysis of all of Amtex's home market and EP selling functions, we find these sales were made at the same level of trade.

For CEP sales, however, we find that the CEP LOT is more advanced than the NV LOT. In the Selling Functions Chart, Amtex claims that the number and intensity of selling functions performed by Amtex in making its sales to Amtex Chemicals are lower than the number and intensity of selling functions Amtex performed for its EP sales, and further claims that CEP sales are at a less advanced stage than home market sales. See Amtex's Section A Response at A17 and Exhibit A-8. Amtex's Section C Response, however, indicates that Amtex's CEP sales are at a more advanced marketing stage than are its home market sales. See Amtex Sections B and C Response at C37 and Exhibit B12.1. Amtex reports that most of the principal selling functions in both markets are carried out by a single employee in the Mexico office. Based on the allocation of that employee's time between CEP sales and other sales, it is evident that the intensity of activity for the principal selling functions is greater for CEP sales than other sales. Id.; see also Exhibit A-1. Accordingly, we preliminarily determine that the CEP LOT (that is, sales from Amtex to its U.S. affiliate) involves a much more intense level of activity than the NV LOT. See Analysis Memorandum at 4-7; see also Purified Carboxymethylcellulose From Mexico: Notice of Preliminary Results of Antidumping Duty Administrative Review, 72 FR

44095, 44098 (August 7, 2007), unchanged in final results, 72 FR 70300 (December 11, 2007).

Because we found the home market and U.S. CEP sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales prices, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the CEP LOT. See 19 CFR 351.412(d)(1)(ii). Furthermore, because the CEP LOT involves a much more intense level of activity than the NV LOT, it is not possible to make a CEP offset to NV in accordance with section 773(a)(7)(B) of the Tariff Act.

#### Currency Conversions

Amtex reported certain home market and U.S. sales prices and adjustments in both U.S. dollars and Mexican pesos. Therefore, we made peso-U.S. dollar currency conversions, where appropriate, based on the exchange rates in effect on the date of the sale, as certified by the Federal Reserve Board, in accordance with section 773A(a) of the Tariff Act.

#### Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted-average dumping margin exists for the period July 1, 2007 through June 30, 2008:

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Producer/Exporter	Weighted-Average Margin (Percentage)
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Quimica Amtex, S.A. de C.V.....	3.95
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The Department will disclose calculations performed within five days of the date of

publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. See 19 CFR 351.309(d)(1). Parties who submit arguments in these proceedings are requested to submit with the argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. Further, parties submitting written comments must provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. Amtex has reported entered values for all of its sales of subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties

calculated for the examined sales to the total entered value of the examined sales of that importer. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. Where the assessment rate is above de minimis, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. In accordance with 19 CFR 356.8(a), the Department intends to issue appropriate assessment instructions directly to CBP on or after 41 days following the publication of the final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these preliminary results that the company did not know were destined for the United States. In such instances we will instruct CBP to liquidate unreviewed entries at the “all others” rate if there is no rate for the intermediate company or companies involved in the transaction.

#### Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective for all shipments of CMC from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: 1) the cash deposit rate for Amtex will be the rate established in the final results of review, unless that rate is less than 0.50 percent (de minimis within the meaning of 19 CFR 351.106(c)(1)), in which case the cash deposit rate will be zero; 2) if the exporter is not a firm covered in this review or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for

the manufacturer of the merchandise; and 3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all-others rate of 12.61 percent from the LTFV investigation. See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden, 70 FR 39734 (July 11, 2005).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act and 19 CFR 351.221.

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Import Administration

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Date